

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 KEVIN CLAUSEN,

Case No. 3:17-cv-00522-RCJ-CBC

4 Plaintiff

ORDER

5 v.

6 NEVADA DEPARTMENT OF
7 CORRECTIONS et al.,

8 Defendants

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10 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by
11 a state prisoner. On November 6, 2018, the Court issued an order dismissing the
12 complaint with leave to amend Count I and directed Plaintiff to file an amended complaint
13 within 28 days. (ECF No. 7 at 6). The 28-day period has now expired, and Plaintiff has
14 not filed an amended complaint or otherwise responded to the Court's order.

15 District courts have the inherent power to control their dockets and “[i]n the
16 exercise of that power, they may impose sanctions including, where appropriate . . .
17 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
18 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
19 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
20 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
21 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal
22 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
23 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
24 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
25 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
26 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
27 failure to comply with local rules).

28 In determining whether to dismiss an action for lack of prosecution, failure to obey
a court order, or failure to comply with local rules, the court must consider several factors:

1 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
2 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
4 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
5 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

6 In the instant case, the Court finds that the first two factors, the public's interest in
7 expeditiously resolving this litigation and the Court's interest in managing the docket,
8 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
9 in favor of dismissal, since a presumption of injury arises from the occurrence of
10 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
11 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
12 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
13 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
14 the court's order will result in dismissal satisfies the "consideration of alternatives"
15 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
16 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within 28
17 days expressly stated: "If Plaintiff does not timely file a first amended complaint, the Court
18 may dismiss Count I with prejudice without further notice." (ECF No. 7 at 6). Thus, Plaintiff
19 had adequate warning that dismissal would result from his noncompliance with the
20 Court's order to file an amended complaint within 28 days.

21 It is therefore ordered that this action is dismissed with prejudice based on
22 Plaintiff's failure to file an amended complaint in compliance with this Court's November
23 6, 2018, order.

24 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 4) is
25 denied as moot.

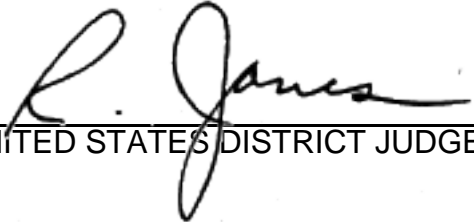
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1 It is further ordered that the Clerk of Court shall close the case and enter judgment
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3 Dated this 14th day of January, 2019.

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6 
UNITED STATES DISTRICT JUDGE
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